

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DEMONE ROYELIO SMITH,

Case No. 12-CV-0163 (PJS/JSM)

Plaintiff,

v.

ORDER

J. BUCK, City of Brooklyn Park Police
Officer,

Defendant.

Demone Royelio Smith, pro se.

Stephanie A. Angolkar and Jon K. Iverson, IVERSON REUVERS CONDON, for
defendant.

This matter is before the Court on the motion of plaintiff Demone Smith for leave to appeal *in forma pauperis* (“IFP”). Because Smith is a “prisoner,” *see* 28 U.S.C. § 1915(h), the \$455 filing fee for his appeal cannot be waived altogether. 28 U.S.C. § 1915(b); *Henderson v. Norris*, 129 F.3d 481, 483-84 (8th Cir. 1997) (per curiam). Instead, an order granting IFP status to a prisoner-appellant merely permits him to pay the filing fee for his appeal in installments, rather than all in advance. *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997). A prisoner is required to pay an “initial partial filing fee” upon the commencement of an action or appeal, and he is required to pay the remaining balance of the fee through periodic deductions from his prison trust account. 28 U.S.C. § 1915(b). If the prisoner has no assets and no means to pay the initial partial fee, however, the entire fee is collected according to the installment plan in § 1915(b)(2). *Henderson*, 129 F.3d at 483-84.

Smith submitted a six-month prison financial statement with his IFP application, but he did not submit an affidavit stating all of his assets as required under 28 U.S.C. § 1915(a)(1). The

Court will therefore deny Smith's motion without prejudice and direct the Clerk of Court to send a copy of the form "Motion and Affidavit for Permission to Appeal In Forma Pauperis" to Smith for him to complete and return.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS
HEREBY ORDERED THAT:

1. Plaintiff's motion for leave to appeal *in forma pauperis* [ECF No. 58] is DENIED WITHOUT PREJUDICE.
2. The Clerk of Court is directed to send a copy of the form "Motion and Affidavit for Permission to Appeal In Forma Pauperis" to plaintiff.

Dated: May 3, 2013

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge